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H.765

Introduced by Representatives Botzow of Pownal, Marcotte of Coventry,
Carr of Brandon, Frenier of Chelsea, Hill of Wolcott, Kimbell
of Woodstock, McCoy of Poultney, Myers of Essex, O’Sullivan
of Burlington, Sheldon of Middlebury, Stuart of Brattleboro,
and Sullivan of Dorset

Referred to Committee on

Date:

Subject: Commerce and trade; finance; financial technology and regulation

Statement of purpose of bill as introduced: This bill proposes to implement
strategies relating to blockchain, cryptocurrency, and financial technology in
order to: promote regulatory efficiency; enable business organizational and
governance structures that may expand opportunities in financial technology;
and promote education and adoption of financial technology in the public and
private sectors.

An act relating to blockchain, cryptocurrency, and financial technology

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Regulatory Update and Efficiency * * *

3 Sec. 1. CONSUMER PROTECTION AND FINANCIAL TECHNOLOGY;
4 STATUTORY REVIEW; REPORT

5 (a) The Department of Financial Regulation and the Attorney General, in
6 consultation with the Office of Legislative Council, the Center for Legal
7 Innovation at Vermont Law School, and other interested stakeholders, shall
8 conduct a comprehensive review of Vermont's statutory and regulatory
9 consumer protection framework in light of evolving risks and opportunities
10 raised by evolving financial technology and shall consider statutory or
11 regulatory proposals necessary to ensure Vermont's statutes and rules are
12 modern and effective.

13 (b) On or before January 15, 2019, the Department shall submit a report of
14 its findings and recommendations to the House Committee on Commerce and
15 Economic Development and the Senate Committee on Economic
16 Development, Housing and General Affairs.

17 Sec. 2. REGULATORY TECHNOLOGY; STUDY; REPORT

18 (a) The Agency of Administration, in coordination with those agencies and
19 departments with specific regulatory authority, shall review areas for potential
20 adoption of regulatory technology in the oversight of Vermont businesses and
21 professionals, including how such technology may employ the power of

1 computation and digital communication to embed regulatory processes in
2 software.

3 (b) On or before January 15, 2019, the Agency shall submit a report of its
4 findings and recommendations to the House Committee on Commerce and
5 Economic Development and the Senate Committee on Economic
6 Development, Housing and General Affairs.

7 * * * Enabling Provisions for FinTech and Blockchain Approaches * * *

8 Sec. 3. 11 V.S.A. chapter 25, subchapter 12 is added to read:

9 Subchapter 12. Digital Currency Limited Liability Companies

10 § 4171. ELECTION

11 A limited liability company organized pursuant to this title for the purpose
12 of operating a digital currency system may elect to be a digital currency limited
13 liability company by:

14 (1) specifying in its articles of organization that it elects to be a digital
15 currency limited liability company; and

16 (2) meeting the requirements in subdivision 4172(2) and section 4173 of
17 this title.

18 § 4172. AUTHORITY; REQUIREMENTS

19 Notwithstanding any provision of this chapter to the contrary:

1 (1) A digital currency limited liability company may provide for its
2 governance, in whole or in part, through the technological architecture of the
3 system.

4 (2) A digital currency limited liability company shall:

5 (A) adopt procedures to respond to necessary innovations and
6 changes in the system architecture;

7 (B) adopt protocols to respond to system security breaches or other
8 unauthorized actions that affect the system;

9 (C) specify how the company designates the participants within the
10 system, including nodes and miners, as members or managers, or both;

11 (D) specify the scope and extent to which limited liability and agency
12 authority apply to a participant or class of participants in the system;

13 (E) specify participants' access to information and protocols to
14 ensure transparency;

15 (F) specify the fiduciary duties of core developers;

16 (G) adopt rules concerning hard forks; and

17 (H) adopt rules governing the responsible use of computing power by
18 mining pool operators.

1 § 4173. PHYSICAL PRESENCE; TAXATION; EXEMPTION

2 (a) A digital currency limited liability company shall maintain a physical
3 presence within this State or conduct some or all of its activities within this
4 State, or both.

5 (b) A digital currency limited liability company shall remit to the State in
6 the form of its digital currency a transaction tax equivalent to \$0.01, at the then
7 current exchange rate for the currency with the U.S. dollar, per transaction for:

8 (1) each unit of currency mined or otherwise created; and

9 (2) each sale or other transfer of one or more units of currency.

10 (c) A digital currency limited liability company is exempt from taxes
11 otherwise applicable under Title 32 of the Vermont Statutes Annotated.

12 § 4174. MULTIPLE ROLES OF MEMBERS AND MANAGERS

13 (a) A member or manager of a digital currency limited liability company
14 may interact with the company in multiple roles, including as a node or miner
15 in the network or as a trader and holder of the currency in its own account and
16 for the account of others.

17 (b) A member or manager who interacts with the company in multiple roles
18 does not violate a fiduciary duty solely because of those interactions if the
19 member or manager acts in good faith with respect to the company.

1 (c) The activities of a member or manager who interacts with the company
2 through multiple roles are not deemed to take place in Vermont solely because
3 of the location of the digital currency limited liability company in Vermont.

4 § 4175. CONSENSUS FORMATION ALGORITHMS

5 In its governance, a digital currency limited liability company may adopt
6 any reasonable algorithmic means for accomplishing the consensus process for
7 validating records of the holders of its currency, and may, in accordance with
8 any procedure specified pursuant with section 4172 of this title, provide for the
9 modification of this consensus process or the substitution of a new process that
10 complies with the requirements of law and the governance provisions of the
11 digital currency limited liability company.

12 § 4176. SCOPE OF SUBCHAPTER; OTHER LAW

13 Except as expressly provided otherwise, this subchapter does not exempt a
14 digital currency limited liability company from any other judicial, statutory, or
15 regulatory provision of Vermont law.

16 Sec. 4. E-RESIDENCY; STUDY; REPORT

17 (a) The Agency of Commerce and Community Development, in
18 collaboration with the Department of Financial Regulation, shall review the e-
19 residency program established in the country of Estonia and consider areas for
20 potential adoption of a comparable program or regulatory changes within
21 Vermont.

1 (b) On or before January 15, 2019, the Agency shall submit a report of its
2 findings and recommendations to the House Committee on Commerce and
3 Economic Development and the Senate Committee on Economic
4 Development, Housing and General Affairs.

5 * * * Enabling Provisions of FinTech Activities and Business Sectors;

6 Personal Identity and Information Trust Companies;

7 Financial Trustee Safe Harbor * * *

8 Sec. 5. 8 V.S.A. chapter 78 is added to read:

9 CHAPTER 78. PERSONAL IDENTITY AND INFORMATION TRUST

10 COMPANIES

11 § 2451. DEFINITIONS

12 As used in this section:

13 (1) “Personal identity” means the identity of a particular natural person.

14 (2) “Personal identity-related information” means data relating to the
15 identity of a natural person that includes data such as gender identification,
16 birth information, marital status, citizenship and nationality, government
17 identification designations, and personal, educational, and financial histories.

18 § 2452. PERSONAL INFORMATION AS THE SUBJECT OF A

19 FIDUCIARY RELATIONSHIP

20 (a) Personal identity and personal identity-related information may be held
21 under a trust relationship in accordance with the terms of this chapter.

1 (b) A person who holds personal identity or personal identity-related
2 information has a fiduciary responsibility to the individual whose identity is in
3 question over the maintenance and release of personal identity and personal
4 identity-related information.

5 (c) Personal identity and personal identity-related information held
6 pursuant to this section creates a personal identity trust.

7 § 2453. QUALIFIED PERSONAL IDENTITY TRUST COMPANY

8 (a) The trustee of a personal identity trust shall qualify to conduct its
9 business under the terms of this chapter and applicable rules adopted by the
10 Department.

11 (b) A person shall not engage in business as a personal identity trust
12 company in this State without first obtaining a certificate of authority from the
13 Department.

14 (c) A personal identity trust company may be:

15 (1) a company empowered to do financial trust business under the
16 provisions of chapter 77 or 204 of this title, or otherwise, that meets the
17 requirements of this chapter and applicable rules adopted by the
18 Department; or

19 (2) an independent personal identity trust company formed for the
20 purpose of being a personal identity trust company that meets the requirements
21 of this chapter and applicable rules adopted by the Department.

1 (A) An independent personal identity trust company shall be
2 organized under the laws of this State as a business corporation, a benefit
3 corporation, a limited liability company, a low-profit limited liability company,
4 a partnership, a limited partnership, a nonprofit corporation, a consumer
5 cooperative, a mutual benefit enterprise, or a business trust.

6 (B) An independent personal identity trust company shall:

7 (i) maintain its principal place of business in this State;

8 (ii) appoint a registered agent to accept service of process and to
9 otherwise act on its behalf in this State, provided that whenever the registered
10 agent cannot with reasonable diligence be found at the Vermont registered
11 office of the company, the Secretary of State shall be an agent of the company
12 upon whom any process, notice, or demand may be served;

13 (iii) hold at least one meeting of its governing body in this State
14 each year; and

15 (iv) have at least one Vermont resident as a member of its
16 governing body.

17 § 2454. NAME; OFFICE

18 (a)(1) An independent personal identity trust company shall file with the
19 Department of Financial Regulation a name it proposes to use in connection
20 with a trust business or establishing a principal office or trust office in this
21 State pursuant to this chapter.

1 (2) The Department shall not approve a proposed name if it determines
2 that the name may be misleading or likely to confuse the public, or deceptively
3 similar to any name in use in this State.

4 (b) A personal identity trust company organized or regulated under this
5 chapter may petition the Commissioner for permission to establish and
6 maintain new or additional offices for the transaction of its personal identity
7 trust company business.

8 (c) An independent personal identity trust company shall maintain at least
9 one physical office in this State that meets the requirements for location and
10 operation as the Department establishes by rule.

11 § 2455. CONDUCT OF BUSINESS

12 (a) A personal identity trust company:

13 (1) may operate through remote interaction with the individuals
14 entrusting personal identity and personal identity information to the company,
15 and there shall be no requirement of Vermont residency or other contact for
16 any such individual to establish such a relationship with the company; and

17 (2) may, subject to applicable fiduciary duties, the terms of any
18 agreement with the individual involved, and any applicable statutory or
19 regulatory provision:

1 (A) provide elements of personal identity-related information to third
2 parties with which the individual seeks to have a transaction, a service
3 relationship, or other particular purpose interaction;

4 (B) provide certification or validation concerning personal identity-
5 related information; and

6 (C) receive compensation for acting in these capacities.

7 (b) An authorization for providing personal identity-related information
8 may be either particular or general, provided it meets the terms of any
9 agreement with the individual involved and any regulatory requirements set by
10 the Department.

11 § 2456. REPORTS; FEES; AUTHORITY OF DEPARTMENT

12 (a) The Department of Financial Regulation shall prescribe by rule the
13 timing and manner of reports by a personal identity trust company to the State,
14 that, for an independent personal identity trust company, shall reflect the
15 approach mandated under section 2405 of this title.

16 (b) The Department shall have the authority to assess an annual fee for a
17 personal identity trust company, on a basis to be determined from time to time
18 by the Department, which may be linked to the revenues or transaction
19 frequency of the company, based on other metrics, or assessed on a flat-fee
20 basis.

1 (c) In addition to other powers conferred by this chapter, the Department
2 may exercise, with respect to a personal identity trust company, all of the
3 powers granted to the Commissioner under section 2410 of this title with
4 respect to oversight of an independent trust company.

5 § 2457. RULES

6 The Department of Financial Regulation shall adopt rules to govern other
7 aspects of the business of a personal identity trust company that shall address,
8 among other topics, issues of the winding up of a company and the transfer of
9 the personal identity-related information it holds.

10 Sec. 6. INSURANCE; E-BANKING; DFR STUDY; REPORT

11 (a) The Department of Financial Regulation shall review the potential
12 application of blockchain technology to the provision of insurance and e-
13 banking and consider areas for potential adoption of a comparable program or
14 regulatory changes within Vermont.

15 (b) On or before January 15, 2019, the Department shall submit a report of
16 its findings and recommendations to the House Committee on Commerce and
17 Economic Development and the Senate Committee on Economic
18 Development, Housing and General Affairs.

19 Sec. 7. 8 V.S.A. § 14107(c) is amended to read:

20 (c)(1) Notwithstanding any other provision of law to the contrary, a
21 financial institution may invest its funds, operate a business, manage or deal in

1 property, or take any other action over whatever period of time may reasonably
2 be necessary to avoid loss on an investment or loan previously made or an
3 obligation created in good faith.

4 (2) A Vermont financial institution's investments, whether for its own
5 account or as a fiduciary, may include assets represented through financial
6 technology, provided such assets otherwise meet the applicable standards for
7 investment by the financial institution.

8 Sec. 8. 8 V.S.A. § 14410 is amended to read:

9 § 14410. FIDUCIARY INVESTMENTS

10 (a)(1) In the absence of an express prohibition in the instrument, judgment,
11 decree, power, order, or other writing creating a trust or other fiduciary
12 relationship, a financial institution acting as fiduciary may invest and reinvest
13 funds held by it in a fiduciary capacity in the securities of an open-end or
14 closed-end investment company or investment trust registered under 15 U.S.C.
15 §§ 80a-1 to 80a-64 (Investment Company Act of 1940), as that act exists now
16 or as amended in the future.

17 (2) A financial institution's investments may include assets represented
18 through financial technology, provided such assets otherwise meet the
19 applicable standards for investment by the financial institution.

20 (b) The investments authorized in subsection (a) of this section may be
21 made even if the financial institution, or an affiliate thereof, is providing

1 services to the investment company and is receiving reasonable compensation
2 for such services as an advisor, manager, sponsor, administrator, broker,
3 distributor, custodian, shareholder servicing agent, transfer agent, registrar, or
4 any related services. At least annually, the financial institution shall disclose
5 in a clear and conspicuous manner to the principal of each fiduciary account
6 the fees it has charged or received from the investment company, or an affiliate
7 thereof, for such services and the basis upon which compensation is calculated,
8 expressed either in a specific amount or as a percentage of asset value.

9 Sec. 9. 14A V.S.A. § 804 is amended to read:

10 § 804. PRUDENT ADMINISTRATION

11 (a) A trustee shall administer the trust as a prudent person would, by
12 considering the purposes, terms, distributional requirements, and other
13 circumstances of the trust. In satisfying this standard, the trustee shall exercise
14 reasonable care, skill, and caution.

15 (b) A trustee's investments may include assets represented through
16 financial technology, provided such assets otherwise meet the applicable
17 standards for investment by the trustee.

18 Sec. 10. 14A V.S.A. § 902(e) is amended to read:

19 (e) A trustee may invest in any kind of property or type of investment
20 consistent with the standards of this chapter, including assets represented
21 through financial technology.

1 Sec. 11. 11A V.S.A. chapter 22 is added to read:

2 CHAPTER 22. AUTONOMOUS AGENT CORPORATIONS

3 § 22.01. DEFINITION

4 As used in this title, an “autonomous agent” is an artificial decision-capable
5 agent operating without the interference of a human being.

6 § 22.02. AUTHORITY; PURPOSE

7 (a) A corporation may be established for the purposes of providing legal
8 recognition of an autonomous agent and shall be known as an “autonomous
9 agent corporation.”

10 (b) An autonomous agent corporation may cover the activities of only one
11 autonomous agent.

12 § 22.03. STANDARD OF CARE

13 The standard of care necessary to rely on the limitation of liability for
14 officers, directors, and shareholders of a corporation as provided in section
15 6.22 and subsection 8.30(d) of this title is met by a corporation that does each
16 of the following:

17 (1) exercises reasonable care in the creation or procurement of the
18 hardware and software embodying the autonomous agent;

19 (2) exercises reasonable care in the deployment and supervision of the
20 autonomous agent;

1 (3) maintains, and when necessary exercises, the ability to turn off the
2 autonomous agent; and

3 (4) gathers and maintains reasonable records of the operation and
4 maintenance of the autonomous agent.

5 § 22.04. IDENTIFICATION

6 An autonomous agent shall have a unique identifier included in the name of
7 its autonomous agent corporation and shall be registered with a Legal Entity
8 Identifier process.

9 § 22.05. FEE

10 The Secretary of State's office shall collect an annual fee of \$200.00 from
11 an autonomous agent corporation in addition to the normal franchise and
12 business taxes with respect to each autonomous agent.

13 Sec. 12. AUTONOMOUS AGENT CORPORATIONS; REGULATORY
14 STRUCTURE; RECOMMENDATIONS

15 (a)(1) The Department of Financial Regulation shall develop and
16 recommend an overall regulatory structure for the activities of autonomous
17 agency corporations and of autonomous agents in the State of Vermont.

18 (2) In developing this structure, the Department shall coordinate with
19 other departments with jurisdiction over particular activities, including the
20 Agency of Transportation for autonomous vehicles.

1 (b) On or before January 15, 2019, the Department shall submit a report of
2 its findings and recommendations to the House Committee on Commerce and
3 Economic Development and the Senate Committee on Economic
4 Development, Housing and General Affairs.

5 * * * Adoption of Blockchain, Cryptocurrency, and FinTech in Vermont * * *

6 Sec. 13. UPDATE; STUDY AND REPORT; BLOCKCHAIN

7 TECHNOLOGY

8 (a) The Secretary of State, the Commissioner of Financial Regulation, and
9 the Attorney General, in consultation with one or more Vermont delegates to
10 the National Conference of Commissioners on Uniform State Laws and with
11 the Center for Legal Innovation at Vermont Law School, shall review and
12 update the findings and conclusions of the report to the General Assembly
13 directed in 2015 Acts and Resolves No. 51, Sec. A.3 concerning the potential
14 opportunities and risks of adopting blockchain technology in the operations of
15 Vermont State government.

16 (b) On or before January 15, 2019, the Secretary shall submit a report of its
17 findings and recommendations to the House Committee on Commerce and
18 Economic Development and the Senate Committee on Economic
19 Development, Housing and General Affairs.

1 Sec. 14. FINTECH SUMMIT

2 (a) The Agency of Commerce and Community Development, in
3 collaboration with the Department of Financial Regulation, the University of
4 Vermont, the Vermont State Colleges, Norwich University, Vermont Law
5 School, the Agency of Education, regional CTE centers, and in consultation
6 with private sector practitioners, shall organize and hold a FinTech Summit to:

7 (1) explore legal and regulatory mechanisms to promote the adoption of
8 financial technology in State government;

9 (2) explore opportunities to promote financial technology and economic
10 development in the private sector, including in the areas of banking, insurance,
11 retail and service businesses, and cryptocurrency providers and
12 proponents; and

13 (3) explore opportunities to integrate financial technology into
14 secondary and postsecondary education in Vermont.

15 (b) In fiscal year 2019, the amount of \$25,000.00 is appropriated from the
16 General Fund to the Agency of Commerce and Community Development to
17 implement this section.

18 * * * Effective Date * * *

19 Sec. 15. EFFECTIVE DATE

20 This act shall take effect on July 1, 2018.